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CITY OF OAKLAND
Memorandum

TO: Distribution List
ATTN:
FROM: Office of the City Auditor
DATE: August 3, 1998
RE: Contracts for Consulting and Professional Services:
Summary of the 1996-97 General Fund Contract Expenditures
and Review of Applicable Policies and Procedures

◆ **EXECUTIVE SUMMARY** ◆

Attached is a copy of the above referenced, which was prepared by Debbie Corso and Bob Clary, members of the City Auditor's Performance and Evaluation Unit.

GENERAL BACKGROUND

The Executive Management group of an organization establishes written policies and procedures to help ensure that the goals and objectives of the organization are achieved. Included among the goals are the (1) prudent management of the organization's monetary resources, and (2) the promotion of the efficiency and effectiveness of the organization's human resources.

SPECIFIC BACKGROUND

The City Manager issues Administrative Instructions (AIs) defining "... policy, rules and procedures applicable to all City departments and employees for the operation of the City government."

AI 150 pertains to Consulting and Professional Services Contracts. Shortly after we began a review of this AI, which was issued in October 1990, a revised AI 150 was issued in January 1998. This development necessitated an expansion of our scope, resulting in a more comprehensive review than we had anticipated.

RESULTS IN BRIEF

We acknowledge that the recommendations contained in this report may need to be revised as time passes, new developments occur and as more staff have input into the discussion.

However, based on our research, we developed some recommendations which could be implemented over a timeframe ranging from six months to two years; or now, later and much later.

Examples of recommendations and their timeframe for implementation are shown below:

- Now -- over a six month period
 - Develop account descriptions of contract services which will better meet the

reporting needs of the departments. This would minimize the widespread meaningless use of "other" and "miscellaneous" descriptive categories.

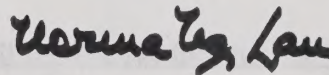
- Incorporate in the new AI 150 issued January 1998 some of the important features contained in the superseded AI 150 issued October 1990.
- Later -- over a subsequent twelve month period
 - Departments begin compiling data base information.
 - Develop a training manual and program for contract administrators and contract monitors.
- Much Later -- upon availability of the Local Area Network (LAN) by the Office of Information Technology (OIT).
 - Develop a City-wide data base of information on consulting and professional services contractors.

ACKNOWLEDGMENT

We thank the department staff who participated in our interviews and provided us with input on the two drafts of our report.

An AI is a far-reaching document. If it is well planned and developed with adequate user input, it will definitely add value to the City's operations.

If you need clarification or additional information, please call me at 238-3378.



NORMA NG LAU
City Auditor

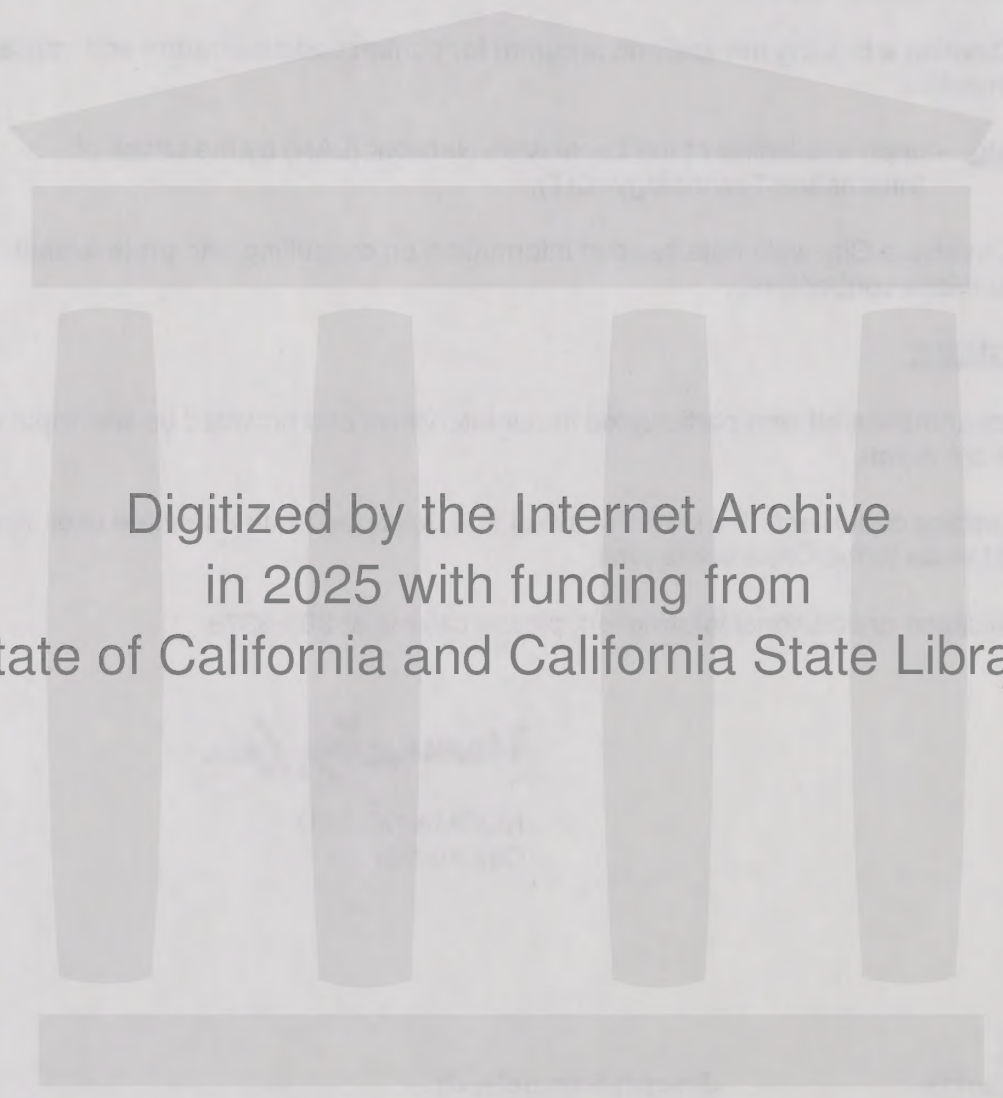
Attachment

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Office of the City Auditor
Intraoffice Memo

To: Norma Ng Lau, City Auditor

Date: June 25, 1998

From: Performance and Evaluation Unit:
Debbie Corso, Program and Performance Auditor
Bob Clary, Management Assistant

Subject: Contracts for Consulting and Professional Services:
Summary of 1996-97 General Fund Contract Expenditures
and Review of Applicable Policies and Procedures

I. PURPOSE OF REVIEW

One of the responsibilities of the City Auditor is to evaluate the City's internal controls to ensure that the City's assets and resources are reasonably safeguarded from fraud, waste and mismanagement. One category of such controls is that of policies and procedures established for a given area of activity.

II. SUMMARY OF 1996-97 GENERAL FUND CONTRACT EXPENDITURES

In 1996-97, the total budget for the General Fund (Fund 101) amounted to \$300,860,000, of which contract expenditures comprised 5.2%, or \$15,633,422.

We noted that despite a total of 40 specific descriptions in the City's Chart of Accounts, the majority (70%) of such expenditures were charged to "other contract expenditures," as shown below in Chart 1.

CHART 1
FISCAL YEAR 1996-97 CONTRACT EXPENDITURES (Account 54XXX)

Type of Expense	Account Number	Total Amount	Percent of Total
Architectural & Engineering	544XX	\$ 1,400.00	0.1
Accounting and Auditing	541XX	247,306.15	1.6
Data Processing	542XX	269,265.68	1.7
Temporary Personnel	548XX	377,658.40	2.4
Medical & Veterinarian	543XX	522,109.34	3.3
Printing & Duplicating	547XX	546,327.95	3.5
Repairs & Maintenance	546XX	897,522.57	5.7
Legal	545XX	1,785,273.05	11.4
Other	549XX	10,986,558.65	70.3
Totals		\$ 15,633,421.79	100.0

II. SUMMARY OF 1996-97 GENERAL FUND CONTRACT EXPENDITURES (continued)

Additionally, the majority (74.8%) of "other contract expenditures" were then charged to the sub-account of "miscellaneous contracts," as shown below in Chart 2:

CHART 2
FISCAL YEAR 1996-97 "OTHER" CONTRACT EXPENDITURES (Account 549XX)

Type of Expense	Account Number	Total Amount	Percent of Total
Child Care Services	54914	\$ 0.0	0.0
Support Services	54916	0.0	0.0
OPIC Administration	54917	0.0	0.0
Capital Improvement Project Assessment	54918	0.0	0.0
Training Services	54915	31,897.06	0.3
Third Party Grant Contracts	54912	127,540.00	1.1
Contract Contingencies	54911	436,281.80	4.0
Third Party Individual Contracts	54913	2,173,591.77	19.8
Miscellaneous Contracts	54919	8,217,248.32	74.8
Totals		\$10,986,558.95	100.0

We understand that budgeting under a "miscellaneous" account is often necessary during the budget process. However, after the contracts are executed, transferring the funds and charging them to the appropriate expenditure account would provide departments with a more informative tracking mechanism.

If the current 40 account descriptions are not suitable to track actual services for which City departments/agencies contract, then they should be adjusted to be truly meaningful descriptions of the type of contract expenses.

Attachments D-1 and D-2 of this report provide detailed information on contract expenditures.

III. OUR APPROACH

We began with a review of Administrative Instruction (AI) 150, issued October 2, 1990. AI 150 has for years been the premier document establishing policies and procedures for consulting and professional services contracts. The stated purpose of that AI was to: "(1) define consulting and professional services; (2) establish City policy on the procurement of consulting and professional services; and (3) establish procedures for departmental processing of requests for consulting and professional services."

However, shortly after we began our review, a revised AI 150 was issued by the City

III. OUR APPROACH (continued)

Manager's Office, dated January 1, 1998, which superseded the October 2, 1990 version. The focus of the AI was changed with the release of the newer version. We noted that neither the essence nor specifics of the older version had been included in the newer version.

As a result of this development we established the following objectives for this review.

IV. OBJECTIVES

- A. Review documents describing Citywide policies and procedures relative to consulting and professional service contracts
- B. Compare and comment on the differences between the old AI 150 (October 2, 1990) and the new AI 150 (January 1, 1998), as AI 150 is the premier document dealing with this topic.
- C. Address the need for revised/additional controls in the procurement of consulting and professional services contracts.

**V. REVIEW DOCUMENTS DESCRIBING CITYWIDE POLICIES AND PROCEDURES
RELATIVE TO CONSULTING AND PROFESSIONAL SERVICE CONTRACTS**

The primary Citywide documents relevant to Consulting and Professional Service Contracts are:

AI 22, dated 12/1/89	AI 4312, dated 5/10/82
AI 23, dated 12/21/89	AI 4318, dated 5/10/82
AI 150, dated 10/2/90	AI 4319, dated 5/10/82
AI 150, dated 1/1/98	AI 6002, dated 10/22/82
AI 180, dated 11/16/81	Ordinance No. 7937 CMS
AI 1018, dated 5/1/82	Ordinance No. 11724 CMS

Attachment A provides a description of each of these documents. These are the primary source documents upon which this report is based.

Attachment B includes two flow charts:

- B-1 tracks from start to finish the consulting and professional services contracting process as outlined in various procedural documents, primarily AI 150 dated October 2, 1990 (old AI).
- B-2 tracks the professional services contract procedures as outlined in AI 150 dated January 1, 1998 (new AI).

VI. COMPARE AND COMMENT ON THE DIFFERENCES BETWEEN THE OLD AI (10/2/90 VERSION) AND THE NEW AI (1/1/98 VERSION)

Attachment C is a comprehensive listing of the differences in the old and new versions of AI 150.

The following observations highlight information which has been 'lost' with the creation of the new AI. They are presented in order of perceived importance relative to financial risk and/or loss or weakening of internal controls.

A. Old AI:

provided procedural requirements depending on the dollar amount of the contract, specifically:

Services less than \$5,000 do not require a written contract; they do require an RFP, or informal bidding when time constraints make an RFP unfeasible; they must be approved by the City Manager's Office (CMO) as to necessity of service/content of contract; and if a written contract is to be used it must be approved by the City Attorney's Office (CAO) as to form and legality.

Services \$5,000 to \$14,999 require a written contract; require an RFP or informal bidding process; the contract must be approved by CMO as to content and CAO as to form and legality.

Services greater than \$14,999 require a Council resolution; require a written contract; require an RFP or informal bidding; contract must be approved by CMO as to content and CAO as to form and legality.

New AI:

provides only limited procedures for contracts equal to or greater than \$15,000, and this is through reference to AI 4319.

B. Old AI:

encouraged departments to issue an RFP for all contracts. If an RFP was not feasible because of time and/or other constraints, an "informal bidding" should be done.

New AI:

makes no mention of RFP, informal bidding, or the process necessary to go from identifying the need for the service to actually authorizing the service. It suggests that AI 4318 speaks to the issue of contract processing, but that is inaccurate. AI 4318 states the process to be followed to obtain CMO approval to use outside service providers. However, this omission is only appropriate if Ordinance No. 7937 CMS mandates an RFP. We believe the mandate to be unclear as indicated on Page 8 of this report, Observation 2.b.

VI. COMPARE AND COMMENT ON THE DIFFERENCES BETWEEN THE OLD AI (10/2/90 VERSION) AND THE NEW AI (1/1/98 VERSION) (continued)

C. Old AI:

established a need, and set basic parameters, for the monitoring of contracts during the contract period, and at the conclusion of the contract.

New AI:

makes no mention of monitoring, either during the contract period or at the conclusion of the contract.

D. Old AI:

detailed how to initiate and process contract documents, depending on the dollar amount of the contract.

New AI:

does not address the processing of contract documents.

E. Old AI:

required a business to have an Oakland Business License prior to signing a contract.

New AI:

makes no such requirement. However, it does reference AI 1018 which addresses this issue.

F. Old AI:

encouraged the involvement of an Affirmative Action or Contract Compliance staff person in the selection process if the contract exceeds \$14,999.

New AI:

does not build Affirmative Action oversight into the process. Although Affirmative Action oversight has been eliminated on a state level as the result of the passage of Proposition 209, such oversight is still applicable at the Federal level. Additionally, the City does mandate and track Local Business Enterprise and Small Local Business Enterprise data.

G. Old AI:

required the submission of an Encumbrance Request Form to encumber funds at the onset of the agreement.

VI. COMPARE AND COMMENT ON THE DIFFERENCES BETWEEN THE OLD AI (10/2/90 VERSION) AND THE NEW AI (1/1/98 VERSION) (continued)

G. New AI:

does not mention encumbrance of funds, except that the Budget and Finance Agency (BFA) Accounting Section is the repository of contract forms.

VII. NEED FOR REVISED/ADDITIONAL CONTROLS IN THE PROCUREMENT OF CONSULTING AND PROFESSIONAL SERVICES--OBSERVATIONS AND RECOMMENDATIONS

What follows are observations and recommendations which focus on increasing the City's ability to be more effective, efficient and economical in the expenditure of funds for consulting and professional services contracting and enhance the internal controls over these expenditures.

Some of these observations are the result of concerns with the outdated nature of the 10/2/90 version of the AI, some are concerns raised by the release of the newer version, and some are concerns that are not addressed in any existing document. Collectively, they serve to highlight inadequacies in the system.

A. Internal Controls

1. Observation

Any consultant who provides \$15,000 or more in consulting services to the City in one fiscal year (through one contract or a combination of smaller contracts) must have all contracts which cause the total to exceed \$15,000 approved by Council. However, if contracts are negotiated in multiple departments, staff has no way of knowing when the \$15,000 benchmark has been reached. Additionally, in choosing a consultant for contracted work, staff is unable to determine if the proposed consultant is concurrently under contract with any other City department.

Recommendation

A central database of active contracts should be developed and be accessible to all City departments. The database program should have the ability to sort using various search fields, including, but not limited to, the vendor name, type of service offered, amount of contract and beginning and ending dates of the contract.

2. Observations

- a. Sole source vendor selection is presented as an option in the old AI (10/2/90 version), but no procedural guidelines are provided.

VII. NEED FOR REVISED/ADDITIONAL CONTROLS IN THE PROCUREMENT OF CONSULTING AND PROFESSIONAL SERVICES--OBSERVATIONS AND RECOMMENDATIONS (continued)

A. Internal Controls (continued)

2. Observations (continued)

- b. The old AI (10/2/90 version) makes reference to a "bid process". However, it is not clear whether consulting and professional services contracts are subject to the bid process. Reference documents are either vague or conflicting. If a bid process is required, it is unclear whether all contracts are subject to the process or if the dollar amount of the contract influences this decision.

The primary governing document for the bid process is Ordinance No. 7937 CMS, *An Ordinance Formulating And Establishing Procedures For Bidding, Contracting And Purchasing*, passed in 1969, with various updates as recent as 1984. Sections 1 and 5.i. of this Ordinance conflict on the issue of a need for competitive bidding for consultant/ professional service contacts.

In defining what services are covered by the Ordinance, and therefore subject to the bid process, the Ordinance states:

Section 1. Definitions (Page 1)

(In reference to purchasing and contracting), "*Services* shall mean and include labor, professional services, consulting services, or a combination of services and supplies ..."

However, later in the same document, following a description of the bid process, Section 5. I. Exceptions to Competitive Bidding (Page 3) states:

"Upon the finding and determining in each instance by the City Council that any of the following conditions exist, the restrictions and provisions of this section shall not apply.

"1. To contracts involving the obtaining of professional or specialized services such as, but not limited to, services rendered by architects, engineers, and other specialized professional consultants."

Based upon our interviews with various departmental staff who originate professional services contract agreements, we noted that some follow a bid process and others do not. For those who do follow a bid process, the process actually being followed differs greatly from the procedures outlined in this Ordinance.

VII. NEED FOR REVISED/ADDITIONAL CONTROLS IN THE PROCUREMENT OF CONSULTING AND PROFESSIONAL SERVICES--OBSERVATIONS AND RECOMMENDATIONS (continued)

A. Internal Controls (continued)

2. Observations (continued)

b. (continued)

Specifically:

ORDINANCE 7937 (dated 1969, with updates to 1984)	CURRENT PRACTICE
Office of the City Clerk coordinates a request for bids.	Departments conduct their own request for bids (unless otherwise requested by the City Council).
Bids submitted by vendors are opened by the City Manager at a noticed public meeting.	Bids are opened in the presence of staff representing the City Clerk's Office and the originating department.
Selection of a bidding contractor is done by the City Council.	Selection of a bidding contractor is done by the originating department.

Recommendation

The ordinance needs to be updated to provide more definitive guidelines for sole source vendor selection and the vendor bid process. All applicable documents on this topic should be consistent and clear.

B. Compliance Issues

3. Observation

Some departments use their own "standard" contract template. Most contracts however, are based on the CMO "boiler plate" contract document. Template documents contain numerous contractual requirements to be met, both for the contractor and the contract administrator. Many departmental staff who administer contracts are either unaware of these requirements or do not monitor the requirements before or after the contract is signed to ensure that they are met. As a result, common non-compliance issues are:

- a. The City does not receive interim progress reports. This is a crucial document to evaluate whether or not the deliverable(s) will be received by the City upon completion of the contract.

VII. NEED FOR REVISED/ADDITIONAL CONTROLS IN THE PROCUREMENT OF CONSULTING AND PROFESSIONAL SERVICES--OBSERVATIONS AND RECOMMENDATIONS (continued)

B. Compliance Issues (continued)

3. Observation (continued)

- b. Contractor invoices are not submitted in the stipulated format.
- c. In cases where both the department's and the CMO's templates are in use within a department, auditing requirements vary for contractors performing similar work (or for the same contractor working under multiple contracts).

Recommendations

- a. There should be adequate monitoring to ensure that the contractor meets the requirements as stated within an approved contract.
- b. Training should be provided to appropriate staff to strengthen monitoring activities.

4. Observation

There are numerous documents which address the consulting and professional services contracting process, as indicated earlier in this report. However, we have observed that when a change is made in a process or procedure described in one of the documents, that change is not correspondingly referenced in the other documents. This leads to conflicting information presented in different documents on the same topic.

Recommendation

All documents addressing the consulting and professional services contracting process should be referenced within the documents, and changes to one document should be appropriately reflected in the other related documents.

C. Operational Matters--Process

5. Observations

- a. Contractor evaluation forms (Attachment E to the contract) are seldom completed or filed.
- b. An initial review of the contract is not conducted by the City Manager.

VII. NEED FOR REVISED/ADDITIONAL CONTROLS IN THE PROCUREMENT OF CONSULTING AND PROFESSIONAL SERVICES--OBSERVATIONS AND RECOMMENDATIONS (continued)

C. Operational Matters--Process (continued)

5. Observations (continued)

- c. Original contract documents are not forwarded to the Office of the City Clerk or other central repository.
- d. Services often begin prior to the date the contract is signed by all parties.

Recommendation

Procedures should be defined and training should be provided to appropriate staff to maximize contract compliance capabilities.

D. Operational Matters--Citywide Oversight

6. Observation

There are numerous gaps in both the old and new versions of the AI which collectively play a negative role in its effectiveness. Primarily, there is no mechanism to oversee **all** consulting and professional services contracting in the City. Both versions of the AI deal with micro issues but fail to address macro issues.

In addition, all applicable documents relating to this topic fail to present comprehensive procedures required to effectively manage consulting and professional service contracting Citywide. Some of the comprehensive procedures which are needed include, but are not limited to, the following:

- a. An independent evaluation of how departments determine their 'need' for consultant services
- b. How staff monitor the contract requirements with regard to scope of work and administrative issues
- c. How departmental staff can track their consulting and professional services contract expenditures by developing a database of such expenditures.
- d. How a Citywide database composed of the databases of individual departments for consulting and professional services contracts can be developed and shared by all. Or consider the feasibility of a central repository (see VII. F.).

VII. NEED FOR REVISED/ADDITIONAL CONTROLS IN THE PROCUREMENT OF CONSULTING AND PROFESSIONAL SERVICES--OBSERVATIONS AND RECOMMENDATIONS (continued)

D. Operational Matters--Citywide Oversight (continued)

6. Recommendation

Standardize the oversight of the contracting process throughout the City. Options to achieve this recommendation may include:

- Clarifying and coordinating all documents which address this topic
- Providing mandatory and meaningful staff training for all staff who prepare and monitor contracts (see Section VII. E. below)

Assigning the responsibility for monitoring the administrative aspects of all consultant or professional services contracts to the trained departmental staff who would, among other responsibilities, ensure the maintenance of:

- a complete file of original contract documents
- a database of all City contracts to include, among other attributes:
 - name of contractor
 - type of work being contracted
 - dollar amount of contract
 - term of contract
 - account number charged
 - department's comments on the contractor's performance

E. Operational Matters--Staff Training

7. Observation

Across the organization, a variety of City personnel classifications are assigned the responsibility to monitor contracts. Some of these classifications are specific to project management/administration, and some are generic classifications. Staff who have the responsibility to monitor contracts do not all come to their positions with contract monitoring skill or experience, and the City does not currently offer formal training in this area.

Recommendation

A Consulting, Contracting and Professional Services Contract training program should be developed and made available to all applicable City staff. The program should include, but not be limited to, the following aspects:

VII. NEED FOR REVISED/ADDITIONAL CONTROLS IN THE PROCUREMENT OF CONSULTING AND PROFESSIONAL SERVICES--OBSERVATIONS AND RECOMMENDATIONS (continued)

E. Operational Matters--Staff Training (continued)

7. Recommendation (continued)

- evaluating and documenting the need for contract services,
- formal and informal bid processes,
- selecting the consultant,
- drafting the contract document,
- the contract approval process,
- monitoring the contract during the contract period,
- authorizing the payment of invoices and recording payments in FMS,
- what to do when the contracted work is complete, and
- records management.

F. Operational Matters--Option 1: Central Repository

8. Observation

There is no single repository for contract documents or data regarding consulting and professional services contracts in the City. City departments and agencies independently maintain internal records. Some have computerized racking/monitoring capabilities while others use a simple file cabinet.

Having a centralized repository for contract records would allow the City to:

- Determine if proposed contractors are currently under contract with other City departments
- Ensure consistency of contract requirements
- Monitor departments and consultants who enter into multiple contracts which cumulatively exceed \$15,000 in the same fiscal year
- Document the efficiency and effectiveness of a consultant and share that information intra- and inter- departmentally
- Better evaluate how and where contract dollars are spent

Recommendation

Create a single records management repository for contract documents and a database program for consulting and professional services contracts. Assign the maintenance of the database to one City department/unit.

VII. NEED FOR REVISED/ADDITIONAL CONTROLS IN THE PROCUREMENT OF CONSULTING AND PROFESSIONAL SERVICES--OBSERVATIONS AND RECOMMENDATIONS (continued)

G. Operational Matters--Option 2: Local Area Network (LAN)

9. Observation

In the interest of adhering to the theme of reducing bureaucracy, a more acceptable approach could be to prepare for the use of a Local Area Network (LAN), which is in OIT's work plan.

Recommendation

Departments would need to:

- a. Agree upon a standard list of contract attributes which should be tracked for monitoring, reporting and informational purposes.
- b. Establish and maintain such databases.

Upon the completion of the building of the LAN by OIT, the individual departmental databases could then be merged and made available for Citywide use.

It should be noted that the observations and recommendations discussed above are based on a sampling of documents and discussions with City staff and are not intended to be comprehensive relative to discrepancies between current practice and AI 150 directives.

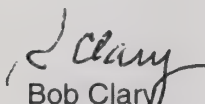
VIII. SUMMARY

For a variety of reasons, the City is currently in a position of being without adequate procedures to effectively manage consultant and professional services contracts. The Administrative Instruction which dealt with this issue has been eliminated, and its replacement does not adequately address the issue.

Given the total dollar expenditures in this cost category, it is incumbent upon the City to strengthen controls in this area to ensure prudent and appropriate expenditure of funds and provide management with valuable information based upon which they can make well informed decisions.



Debbie Corso
Program and Performance Auditor



Bob Clary
Management Assistant

Attachments

DOCUMENTS RELATIVE TO CONSULTING AND PROFESSIONAL SERVICES CONTRACTS

Document	Purpose/Summary	Comments/Suggestions
AI 22 Professional Service Contract Compliance with Ordinance No. 10893 C.M.S. (South Africa Divestment Ordinance).	<u>Purpose:</u> "The purpose of this Administrative Instruction is to establish procedures to ensure Departmental compliance with the provisions of Ordinance No. 10893 C.M.S., known as the South Africa Divestment Ordinance. This instruction is to be followed whenever professional services are required." <u>Summary:</u> "Prior to contracting with any firm or individual for the provision of professional services, the initiating department must ensure that said firm or individual is in compliance with Ordinance No. 10893 C.M.S. Compliance will be achieved when the primary contractor and subcontractors have current affidavits on file with the Office of Finance-Treasury stating that the policy of said firms or individuals is to forego any contractual relations to provide services to public or private sector entities in South Africa and/or Namibia."	No longer applicable -- has been withdrawn.
AI 23 Professional Service Contract Compliance with Ordinance No. 11062 C.M.S. (Oakland Nuclear Free Zone Act) (not currently referenced on AI 150)	<u>Purpose:</u> "The purpose of this Administrative Instruction is to establish procedures to ensure Departmental compliance with the provisions of Ordinance No. 11062 C.M.S., known as the Oakland Nuclear Free Zone Act. This instruction is to be followed whenever professional services are required." <u>Summary:</u> "Prior to contracting with any firm or individual for the provision of professional services, the initiating department must ensure that said firm or individual is in compliance with Ordinance No. 11062 C.M.S. Compliance will be achieved when the prospective contractee has a current Nuclear Free Zone Disclosure Form S on file with the Office of Finance stating that neither the service provider nor any of its subsidiaries, affiliates or agents knowingly engages in nuclear weapons work or anticipates entering into such work for the duration of its contract with the City of Oakland. The restriction against contracting with a nuclear weapons maker may be waived if the City Council determines, after public hearing, that a specific contract is essential to the proper functioning of city government and that no reasonable alternative exists. "	Appropriate and applicable
AI 150 Consulting and Professional Services Contracts (10/02/90)	<u>Purpose:</u> "This is to: (1) define consulting and professional services; (2) establish City policy on the procurement of consulting and professional services; and (3) establish procedures for departmental processing of requests for consulting and professional services."	Superseded by AI 150 (01/01/98)

DOCUMENTS RELATIVE TO CONSULTING AND PROFESSIONAL SERVICES CONTRACTS

<u>AI 150 Consulting and Professional Services Contracts (1/1/98)</u>	<u>Purpose:</u> "This is a checklist of considerations for writing contracts for consultants, or professional services. To facilitate this process, copies of the Consultant/Contractor Questionnaire (Part A), Department Questionnaire (Part B), and Professional Services Agreement (Part D) are available on diskette from the City Attorney's Office, Labor Unit. Please contact this unit to obtain copies of the required documentation or for assistance on the process. "Any use of outside consultant services must be approved by the City Manager and the City Attorney, before the contract is issued or work begins. Upon completion of the various documents, all executed documents must be forwarded to the Budget and Finance Agency, Accounting Unit."	
<u>AI 180 Project Administration</u>	<u>Purpose:</u> "The purpose of this Administrative Instruction is to establish a project administration system that will provide control and accountability over various types of projects by clearly assigning the necessary authority and responsibility for implementing these projects. It is essential the project goals are met, the projects are completed on schedule, and the project expenditures are within funding allocation."	This AI does not specifically differentiate between projects performed by City staff and projects performed by consultants. However, reference is made throughout the AI to city staff. There is no reference to consultants. The AI would be more informative if it clearly differentiated between the two.
<u>AI 1018 Business License Requirements for City Contractors</u>	<u>Background:</u> "All contractors, Consultants, firms or individuals who sign a contract to provide services to the City are required to have a valid business license."	It is fairly presumed that this is an Oakland Business License. This AI is very sketchy. It could be clearer with regard to process.
<u>AI 4312 Procedural Steps for Type II Contracts, Temporary Services of a Professional, Scientific, or Technical Service - \$15,000 or More</u>	"After steps leading up to award of the contract are complete in accordance with Administrative Instruction No. 4318 or No. 4319, and the contractor has been determined, the contract routing responsibility will be as follows for all services of \$15,000, <u>or more</u> which require a Council Resolution and a formal contract."	Superseded by AI 150 (01/01/98)

DOCUMENTS RELATIVE TO CONSULTING AND PROFESSIONAL SERVICES CONTRACTS

<u>AI 4318</u> Temporary Services of a Professional, Scientific or Technical Nature	Purpose: "This is to establish procedures for City Manager Approval and departmental processing of requests for the use of temporary services of a professional, scientific, or technical nature whenever those services cannot be provided by regular employees in Civil Service classifications."	By definition in this AI, temporary services are defined as those services which can be completed in 120 days or less. There is no discussion of temporary service employees. Some information in this AI is in conflict with the 01/98 version of AI 150.
<u>AI 4319</u> Contracts for Consulting Services which are Professional, Scientific, or Technical in Nature.	"This is a checklist of considerations for writing contracts for consultants, or professional services. "Any use of outside consultant services must be approved by the City Manager, before work is done."	Much of this AI is repeated verbatim in the 01/98 version of AI 150. Perhaps the new AI 150 was intended to be a new AI 4319. That appears more appropriate.
<u>Ordinance No. 7937 C.M.S.</u> An Ordinance Formulating and Establishing Procedures for Bidding, Contracting and Purchasing	<u>Summary:</u> Establishes policy regarding the acquisition of supplies and contract services relative to authorization, bidding requirements and the selection of vendors/contractors	This appears to be the policy upon which the AI 150 (10/02/90) procedure was based, although there is not an exact match in subject matter.
<u>Ordinance No. 11724 C.M.S.</u> Ordinance Adopted Pursuant to Article II of the City Charter Amending the Purchasing Ordinance, Ordinance No. 7937 C.M.S., Raising the Approval Limit and Formal Bid Limit for Procurement Contracts	<u>Summary:</u> Raises the requirement for City Council approval of purchase contracts to \$50,000 and retains the existing \$15,000 approval limit for Professional Services and Consultant Agreements.	Has no impact on AI 150 procedures.

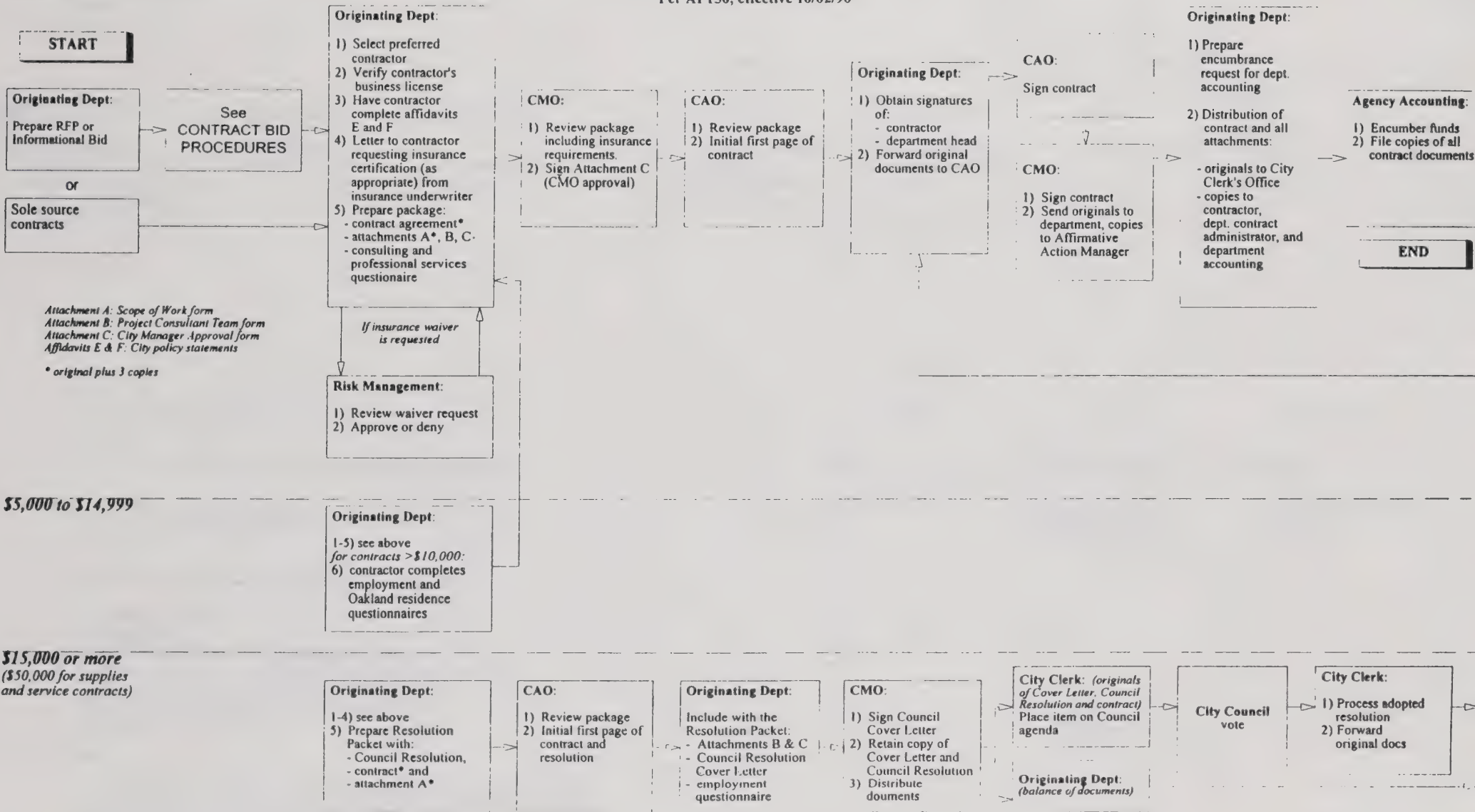
Less than \$5,000

Note: For < \$5,000, a written contract document is optional, however all supporting documents are mandatory.

PROFESSIONAL SERVICES CONTRACT PROCEDURES

Per AI 150, effective 10/02/90

ATTACHMENT B-1



PROFESSIONAL SERVICES CONTRACT PROCEDURES

Per AI 150, effective 01/01/98

ATTACHMENT B-2

START

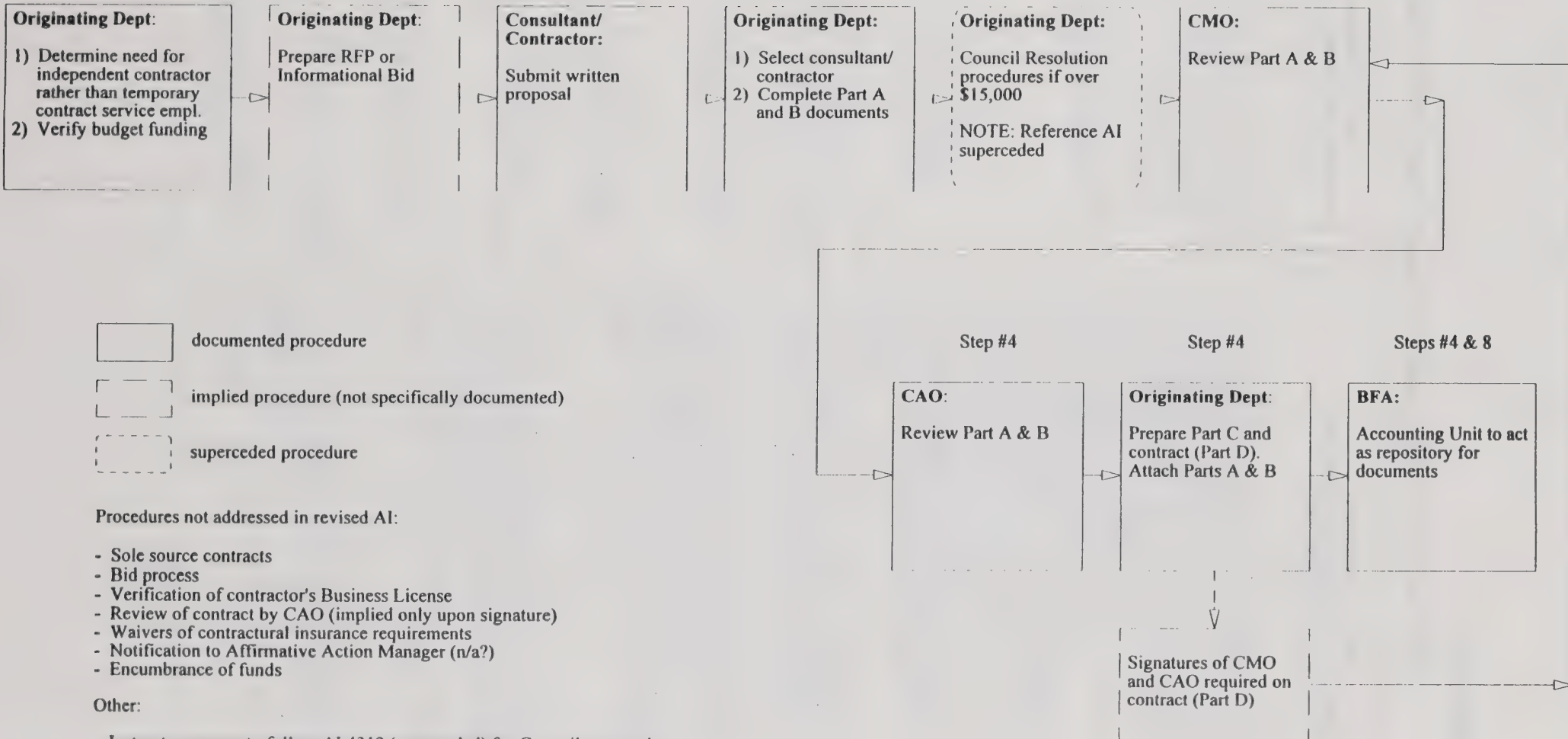
Steps #1 & 2

Step #5

Steps #5' & 3

Step #7

Step #3



ATTACHMENT C

COMPARISON OF AI 150 DATED 10/2/90 AND AI 150 DATED 1/1/98

Consulting and Professional Services Contracts 10/2/90 version of AI 150	Contracting and Professional Services Contracts 1/1/98 version of AI 150
Emphasizes the nature of the service to be provided by stating the purpose of the AI as : - defining consulting & professional services - estb. policy on the procurement of the service (bid process, dollar thresholds, need for resolution/contract) - estb. procedures for processing requests (flow of process) and procedures for processing invoices.	Emphasizes the status of the consultant or professional service provider so as to differentiate between a consultant and a temporary City employee. Limits its address of contract procedures and development to the following statement: "Follow Administrative Instruction No. 4312 or No. 4318, to develop and resolve contract procedures".(7) Note: AI 4312 was superseded by AI 150 on 10/02/90. It has therefore not been in effect for 7+ years. AI 4318 is very weak in addressing development of contract procedures. It establishes the process necessary to obtain CMO approval to use temporary services-which are defined as services of duration of 120 days or less.
Differentiates between consulting and professional services by defining each (purpose). No mention of temporary employees.	Establishes Professional Services Questionnaire as the means for the City Attorney's Office to determine the independent status of the service provider vs. temporary City employee.
States:...'in no case shall consulting or professional services be utilized to circumvent department position and employment levels.' (pg 2, para. 1)	Does not address 'circumventing department position and employee levels'. Charter does prohibit displacement of employees by contract services (section 902e)
Defines when a council resolution is needed and when a written contract is needed (III B&C)	Refers to the need for a council resolution or contract through reference to AI 4318, which states contracts = or > \$15,000 need a contract and resolution (Policy, 3) Makes no reference to when a written contract is optional.
States that all organ., firms, or individuals, contracting with the City need an Oakland Business License (III, D)	Does not state such a requirement
Specific and lengthy discussion of the selection process, including the RFP process. (formal and informal)	Does not speak to contractor selection, RFP or bid process other than to state "After proposals are received, they should be evaluated to determine whether the result, when obtained, will be worth the cost." (II,5)
Establishes the need to monitor the contract, and designates this authority to the project administrator (III,I)	No mention of contract monitoring (limited mention in AI 4319)
Establishes the need for City staff to complete a final evaluation of the contractor, to be filed with the contract.	No mention of a performance evaluation of the contractor at the conclusion of the contract. Limited mention of 'progress reports' in 4319.
Encourages discussion with Risk Mgmt. for waivers to contractual insurance requirements.	No mention

ATTACHMENT C

COMPARISON OF AI 150 DATED 10/2/90 AND AI 150 DATED 1/1/98

Consulting and Professional Services Contracts 10/2/90 version of AI 150	Contracting and Professional Services Contracts 1/1/98 version of AI 150
Establishes detailed procedures and requirements for : • contracts < \$5,000 • contracts = or > \$5,000 but < 15,000 • contracts = or > \$15,000 with regard to RFP, need for resolution/contract, necessary documents, approvals/signatures, flow of process, forms distribution	References AI 4319 with regard to the need for resolution, contract and CMO approval/signature for contracts = or > \$15,000. No mention or reference to contracts <\$15,000, RFP process, informal bidding, necessary documents, flow of process or forms distribution.
Specifies detailed process for receipt, authorization and payment of invoices.	No mention of the processing of invoices.
Sample contract format is attached. "Departments are encouraged to use this version of the contract when possible. However, departments may make changes in the contract provided the changes meet the approval of the City Attorney (for form and legality) and the City Manager (for content)."	Revised (12/97) contract is attached.
City Clerk is official repository for all City contracts	Budget and Finance Agency is official repository for all City contracts
CMO approves use of a consultant	CMO and CAO approve use of consultant

FUND 101 EXPENDITURES, FISCAL YEAR 1996-97

ALL ORGS. BY ACCOUNTS 54XXX, "CONTRACT SERVICES EXPENDITURES"

ATTACHMENT D-1

Fund	Org. No.	Department/ Agency	Acct. 54100 Accounting & Auditing	Acct. 54200 Data Processing	Acct. 54300 Medical & Veterinarian	Acct. 54400 Architectural & Engineering	Acct. 54500 Legal	Acct. 54600 Repairs & Maintenance	Acct. 54700 Printing & Duplicating	Acct. 54800 Temporary Personnel	Acct. 54900 Other Contract Services	Department/ Agency	TOTAL
101	00000	Council						\$861.59	\$801.47	\$9,105.77	\$9,906.60	Council	\$20,675.43
101	01000	Mayor							\$1,197.17		\$24,806.06	Mayor	\$26,003.23
101	02000	Manager						\$202.04	\$21,011.94	\$11,133.60	\$149,587.14	Manager	\$181,934.72
101	03000	Clerk						\$4,687.28	\$121,930.94	\$32,837.73	\$478,347.20	Clerk	\$637,803.15
101	04000	Attorney					\$1,612,108.90	\$5,596.18	\$2,566.85		\$140,958.70	Attorney	\$1,761,230.63
101	05000	OPRM						\$15,298.61	\$158,591.21	\$70,375.00	\$211,641.32	OPRM	\$455,906.14
101	07000	Auditor						\$820.99				Auditor	\$820.99
101	08000	Budget/Finance	\$242,920.19	\$15,561.94			\$29,722.76	\$16,354.08	\$100,343.57	\$71,615.84	\$81,734.84	Budget/Finance	\$558,253.22
101	09000	Retirement			\$343,505.08				\$463.41	\$20,939.96		Retirement	\$364,908.45
101	10000	Police	\$350.00		\$178,314.17			\$606,662.24	\$34,192.29	\$90,383.19	\$221,407.32	Police	\$1,131,309.21
101	20000	Fire						\$16,048.74	\$2,345.42	\$1,655.21	\$311,343.65	Fire	\$331,393.02
101	30000	Public Works	\$4,035.96			\$1,400.00	\$25.00	\$15,045.46	\$12,630.45	\$42,171.93	\$3,889,879.65	Public Works	\$3,965,188.45
101	35000	Planning/Bldg.					\$3,008.69	\$8,445.70	\$28,836.19	\$2,245.94	\$1,122,679.66	Planning/Bldg.	\$1,165,216.18
101	46000	OCIS		\$253,635.99				\$72,132.32	\$9,921.43		\$14,687.21	OCIS	\$350,376.95
101	47000	LEA Admin.							\$1,867.94	\$20,589.66	\$5,775.00	LEA Admin.	\$28,232.60
101	50000	PRCS		\$67.75	\$290.09			\$61,049.25	\$13,082.64		\$159,571.99	PRCS	\$234,061.72
101	61000	Library						\$71,206.91	\$13,606.56		\$32,396.80	Library	\$117,210.27
101	62000	Museum						\$1,821.18	\$1,691.60	\$2,608.01	\$21,442.00	Museum	\$27,562.79
101	71000	OHND									\$261,261.87	OHND	\$261,261.87
101	75000	Aging						\$1,290.00	\$598.72		\$20,028.76	Aging	\$21,917.48
101	78000	HHS							\$10,269.78	\$1,996.56	\$19,701.55	HHS	\$31,987.89
101	80000	OEDE							\$474.34		\$39,343.00	OEDE	\$39,817.34
101	90000	Non-Depart.					\$140,407.70		\$9,904.03		\$3,762,948.33	Non-Depart.	\$3,913,260.06
101	92000	Capital Projects									\$6,110.00	Capital Projects	\$6,110.00
101	94000	Capital Imprvmt									\$1,000.00	Capital Imprvmt	\$1,000.00
TOTAL			\$247,306.15	\$269,265.68	\$522,109.34	\$1,400.00	\$1,785,273.05	\$897,522.57	\$546,327.95	\$377,658.40	\$10,986,558.65	TOTAL	\$15,633,421.79

Fund	Org. No.	Department/ Agency	Acct. 54911 Contract Contingencies	Acct. 54912 Third Party Grant Contracts	Acct. 54913 Third Party Individual Contracts	Acct. 54914 Child Care Services	Acct. 54915 Training Services	Acct. 54916 Support Services	Acct. 54917 OPIC Admin.	Acct. 54918 Capital Imprvmt. Project Assessment	Acct. 54919 Misc. Contract Services	Acct. 54920 Contractor's Admin.	Acct. 54921 Participant's Payroll Account	Acct. 54922 Basic Adjustment Services	Department/ Agency	TOTAL
101	00000	Council									\$9,906.60				Council	\$9,906.60
101	01000	Mayor									\$24,806.06				Mayor	\$24,806.06
101	02000	Manager	\$530.00		\$40.00						\$149,017.14				Manager	\$149,587.14
101	03000	Clerk	\$178,400.83								\$299,946.37				Clerk	\$478,347.20
101	04000	Attorney									\$140,958.70				Attorney	\$140,958.70
101	05000	OPRM					\$26,524.50				\$185,116.82				OPRM	\$211,641.32
101	07000	Auditor													Auditor	\$0.00
101	08000	Budget/Finance					\$5,372.56				\$76,362.28				Budget/Finance	\$81,734.84
101	09000	Retirement													Retirement	\$0.00
101	10000	Police									\$221,407.32				Police	\$221,407.32
101	20000	Fire									\$311,343.65				Fire	\$311,343.65
101	30000	Public Works									\$3,889,879.95				Public Works	\$3,889,879.95
101	35000	Planning/Bldg.		\$783,373.90							\$339,305.76				Planning/Bldg.	\$1,122,679.66
101	46000	OCIS									\$14,687.21				OCIS	\$14,687.21
101	47000	LEA Admin.									\$5,775.00				LEA Admin.	\$5,775.00
101	50000	PRCS	\$1,259.97	\$127,956.00							\$30,356.02				PRCS	\$159,571.99
101	81000	Library									\$32,396.80				Library	\$32,396.80
101	62000	Museum									\$21,442.00				Museum	\$21,442.00
101	71000	OHND		\$261,261.87											OHND	\$261,261.87
101	75000	Aging									\$20,028.76				Aging	\$20,028.76
101	78000	HHS									\$19,701.55				HHS	\$19,701.55
101	80000	OEDE									\$39,343.00				OEDE	\$39,343.00
101	90000	Non-Dept.	\$256,091.00	\$1,000,000.00	\$127,500.00						\$2,379,357.33				Non-Dept.	\$3,762,948.33
101	92000	Capital Projects									\$6,110.00				Capital Projects	\$6,110.00
101	94500	Capital Imprvmt		\$1,000.00											Capital Imprvmt	\$1,000.00
TOTAL			\$436,281.80	\$2,173,591.77	\$127,540.00	\$0.00	\$31,897.06	\$0.00	\$0.00	\$0.00	\$8,217,248.32	\$0.00	\$0.00	\$0.00	TOTAL	\$10,986,558.95



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